example will suffice. Bricks built into a house become land until the house gets pulled down, when the building material by severance from the land becomes reconverted into chattels. The instance cited by Mr. Carter, of the Shell Company removing their tanks from their Nee Soon Station upon the termination of the lease, is irrelevant because there is no evidence as to the terms of the lease. Finally, the fact that the tanks retain their identity as such below ground is entirely immaterial because oak trees, rubber trees and oil palms are no less part of the land although they are growing things and not earth.

The appeal is dismissed with costs.

*Appeal dismissed.*

Solicitors: *Donaldson & Burkinshaw*; *Shook Lin & Bok.*

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## OLOOFSEN v. PUBLIC PROSECUTOR

[A.Cr.J. (Wee Chong Jin C.J.) June 2. 1964]

[Singapore — Magistrate's Appeal No. 247 of 1963]

*Criminal Procedure — Sentence — Appeal — Criminal Procedure Code (Cap. 132), s. 299.*

*Criminal Law — Dangerous drug — Morphine — Possession — Trafficking — Deterrent sentence.*

Once there is an appeal against sentence under section 299 of the Criminal Procedure Code the court has power to reduce or enhance the sentence or to alter the nature of the sentence. This is a power which though rarely used by the court when an appellant appeals against the sentence on the grounds that it is too severe or manifestly excessive is nonetheless there and in a proper case should be exercised by the court. This power though rarely used must be brought more to the attention of persons who come before the appellate court on the question of sentence.

Possession of morphine is a most serious offence. Where a person is found to be in possession of drugs such as this in such quantities as to show positively and convincingly and clearly that he is engaged in trafficking in this drug a deterrent sentence should be imposed. A fine can never be a deterrent sentence in a case like this. The only proper sentence is a term of imprisonment besides a fine.

CRIMINAL APPEAL.

*Lal Behari Singh* for the appellant.

*T. C. Cheng* (Deputy Public Prosecutor) for the respondent.

**Wee Chong Jin C.J.:** I do not agree with the arguments put forward by counsel for the appellant that this is one offence and that it was broken up into parts and that the accused has been convicted and sentenced in respect of two separate parts of one offence of possession.

The facts to prove the charges against the accused were different and in my opinion the magistrate was acting within his powers in imposing separate sentences in respect of the two separate charges.

The only question that has caused me concern is not so much whether the sentences were legal but whether they are adequate in this particular case and I see that under section 299 of the Criminal Procedure Code once there is an appeal against sentence the court has power to reduce or enhance the sentence or to alter the nature of the sentence. This is a power which though rarely used by the court when an appellant appeals against the sentence on the grounds that it is too severe or manifestly excessive is nonetheless there and in a proper case should be exercised by the court. This power though rarely used must be brought more to the attention of persons who come before this court on the question of sentence. It is a most serious offence to be in possession of morphine. It is a drug which can cause serious consequences to persons who are addicted to it. It is of course a dangerous drug, a deleterious drug, and the only reason why the learned magistrate did not impose a sentence of imprisonment was because of the fact that the appellant had a clean record. It appears that perhaps he also took into consideration the fact that he was a partner of a firm which had recently exported a large quantity of cattle fodder to Japan. Those considerations are I think quite out of place in a case where a person is found to be in possession of drugs such as this, not in small quantities which may be because he is an addict but obviously in such quantities as to show positively and convincingly and clearly that he is engaged in trafficking in this drug and unless deterrent sentences are imposed and a fine can never be a deterrent sentence in a case like this, this sort of traffic will continue to be carried on in this part of the world.

Now, having said all that and as I think this is the first instance so far as I am concerned where an appeal in respect of this kind of dangerous drug has been brought before me as regards sentence, it may perhaps be sufficient if I make my views known and not disturb the present sentence imposed. I do not disturb it, not because it is in my opinion sufficient in this particular case, but because this is the first instance on which I have had an opportunity of making known what ought to be a proper sentence and the only proper sentence in a case like this is in my opinion a term of imprisonment besides a fine.

I accordingly dismiss the appeal and with great reluctance affirm the fine imposed.

*Appeal dismissed.*

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